

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARCO T. BARBANTI,

Plaintiff,

v.

QUALITY LOAN SERVICE CORP., a
California Corporation; EDDIE
RAMIREZ AND JANE DOE RAMIREZ,
Husband and Wife; BANK OF NEW
YORK, a New York corporation, as
Trustee, Pursuant to the Terms
of That Certain Pooling and
Servicing Agreement Dated as of
11/1/96 Related to Metropolitan
Asset Funding Inc., Mortgage
Pass-through Certificates Series
1996-a; OCWEN LOAN SERVICING,
LLC, a Delaware corporation;
GINA JOHNSON AND JOHN DOE
JOHNSON,

Defendants.

NO. CV-06-0065-EFS

**ORDER GRANTING PLAINTIFF'S
MOTION FOR ENTRY OF A
DECLARATORY JUDGMENT, AND
DISMISSING THIRD-PARTY COMPLAINT**

This matter came before the Court on Plaintiff's Motion for Entry of a Declaratory Judgment (Ct. Rec. 265) regarding Plaintiff's Motion for Judgment on the Pleadings and Defendant Quality's Motion to Declare Forfeiture void.

FINDINGS OF FACT

1. On August 24, 2005, Defendant Quality Loan Service issued and recorded a Notice of Intent to Forfeit ("NOIF") the property at 5711 N

1 Division, Spokane, Washington (the "Property"). The legal description
2 of the Property is attached as Exhibit "A."

3 2. On January 11, 2006, Defendant Quality Loan Service issued and
4 recorded a Declaration of Forfeiture ("DOF") for the Property.

5 3. The NOIF and DOF were erroneous and contained erroneous
6 information.

7 **CONCLUSIONS OF LAW**

8 1. This Court has jurisdiction to hear this matter and enter this
9 judgment pursuant to 28 U.S.C. § 1332 and 28 U.S.C. §§ 2201 & 2202.

10 2. The above referenced Notice of Intent to Forfeit and Declaration
11 of Forfeiture are hereby declared to be void *ab initio*.

12 3. The recording of the NOIF and DOF had no legal effect on the
13 rights of any entity claiming an interest in the Property and legally
14 described in Exhibit "A."

15
16 Based on the foregoing, and the Court being fully advised, **IT IS**
17 **HEREBY ORDERED:** the Court hereby **grants** the motion and orders the Clerk
18 to enter the following:

19 **DECLARATORY JUDGMENT**

20 1. The Court declares that the Declaration of Forfeiture dated
21 January 3, 2006, and recorded on January 11, 2006, under Spokane County
22 auditor's number 5329760 is VOID and has no legal effect on the
23 ownership of the Property.

24 2. The Court declares that the recordation of the Declaration of
25 Forfeiture did not terminate the rights of any entity claiming an
26 interest in the Property.

1 3. The Court reserves all rights and claims not addressed by this
2 judgment, including the right to attorney fees, until trial.

3
4 DISMISSAL OF THIRD PARTY COMPLAINT

5 Based upon the entry of the above Declaratory Judgment that the
6 contract forfeiture was void, the **third-party complaint** is moot and
7 therefore it is **DISMISSED** without fees or costs to any party.

8
9 **IT IS SO ORDERED.** The District Court Executive is directed to
10 enter this Order and to provide a copy to counsel.

11 **DATED** this 9th day of July 2007.

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14 S/ Edward F. Shea
EDWARD F. SHEA
15 UNITED STATES DISTRICT JUDGE

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17 Q:\Civil\2006\0065.decl.judg.wpd
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EXHIBIT A

LOT 7 AND THE SOUTH 5 FEET OF LOT 8 IN BLOCK 3 OF FRANKLIN PARK ADDITION AS PER PLAT THEREOF RECORDED IN VOLUME "W" OF PLATS, PAGE 50, RECORDS OF SPOKANE COUNTY; SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON AS DESCRIBED IN WARRANTY DEED RECORDED UNDER SPOKANE COUNTY AUDITOR'S FILE NO. 9603250567, AS FOLLOWS:
TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER THAT PORTION OF LOT 6 IN BLOCK 3 OF FRANKLIN PARK ADDITION AS PER PLAT THEREOF RECORDED IN VOLUME "W" OF PLATS, PAGE 50, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT IN THE SOUTHERLY LINE OF LOT 6 DISTANT SOUTH 89 45'30" EAST, 11.79 FEET THEREON FROM THE SOUTHWEST CORNER OF LOT 6; THENCE NORTH 04 05'00" WEST, 27.78 FEET; THENCE NORTH 00 22'52" EAST 47.30 FEET TO THE NORTHERLY LINE OF LOT 6; THENCE SOUTH 89 45'30" EAST, 25.18 FEET; THENCE SOUTH 00 21'39" WEST 9.25 FEET; THENCE SOUTH 89 38'21" EAST, 46.33 FEET; THENCE NORTH 74 37'10" EAST 34.70 FEET TO THE EASTERLY LINE OF LOT 6; THENCE THEREON SOUTH 17.31 FEET; THENCE SOUTH 79 00'58", 26.59 FEET; THENCE NORTH 89 38'21" WEST 68.96 FEET; THENCE SOUTH 00 22'52" WEST, 33.91 FEET; THENCE SOUTH 14 06'47" EAST, 19.29 FEET TO THE SOUTHERLY LINE OF LOT 6; THENCE NORTH 89 45'30" WEST, 12.33 FEET THEREON TO THE POINT OF BEGINNING; SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE, STATE OF WASHINGTON.

The postal address of which is more commonly known as:

5711 N DIVISION STREET
SPOKANE, WA 99207